

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 12 OF 1995**

Vasantdada Sahakari Sootgirni

Ltd. Sangli

..Appellants

versus

The State of Maharashtra & Anr.

..Respondents

Mrs. A.R.S. Baxi for the Appellants.

Mr. S. N. Gawade, A.G.P. for the Respondents.

CORAM : D. G. DESHPANDE, J.

DATE : 17TH FEBRUARY, 2005

ORAL ORDER :

1. Heard counsel for the Appellants and the AGP for the State - Respondents.

2. Appellant is the original plaintiffs who had filed a suit against the respondents for a declaration that increase in tax by the Government of the suit property was illegal and against the provisions of law. The suit came to be dismissed by the Civil Judge, Senior Division, Sangli by Judgment dated 29.9.1994. Hence this appeal.

3. Without going to the merits of the case as

argued by the counsel for the appellants, it is clear that in the written statement stand of the Government was that the demand notice was issued to the plaintiff on the basis of a non agricultural assessment fixed pursuant to the Extra Ordinary Government Notification dated 20.3.1980 at page No.1002. Therefore it is clear that the demand was just in consequence of or effect of the aforesaid notification and what the plaintiff was required to challenge was the said notification. Merely challenging the demand notice would not be sufficient because basis of the demand notice was the aforesaid notification. This aspect was considered by the trial court in paragraph 13 and rightly the suit was dismissed. No interference is called for. Appeal is dismissed. It will be open to the appellants to challenge the said notification by appropriate proceedings. No order as to costs.

17.02.2005

(D. G. DESHPANDE, J.)